

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BELKYS IVELISSE VALVERDE	:	CIVIL ACTION
RODRIGUEZ	:	
	:	
V.	:	
ANDREW SAUL, Commissioner of	:	
Social Security ¹	:	NO. 19-657

MEMORANDUM AND ORDER

ELIZABETH T. HEY, U.S.M.J.

October 28, 2019

Belkys Ivelisse Valverde Rodriguez (“Plaintiff”) seeks review of the Commissioner’s decision denying her claim for disability insurance benefits (“DIB”), claiming that the Administrative Law Judge (“ALJ”) erred in finding that Plaintiff had no severe physical impairments, failing to properly consider the limitations found by the consultative examiner, failing to include all of Plaintiff’s functional limitations in the residual functional capacity assessment (“RFC”), and failing to develop the record with respect to Plaintiff’s physical impairments. Doc. 11 at 3-11. The Commissioner has responded with an uncontested motion for remand, requesting remand to allow further evaluation of Plaintiff’s claim, which may include additional development of the record and a de novo hearing. Doc. 20.²

¹Andrew Saul became the Commissioner of Social Security (“Commissioner”) on June 17, 2019, and should be substituted for the former Acting Commissioner, Nancy Berryhill, as the defendant in this action. Fed. R. Civ. P. 25(d).

²The parties have consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c). See Standing Order, In RE: Direct Assignment of Social Security Appeal Cases to Magistrate Judges (Pilot Program) (E.D. Pa. Sept. 4, 2018); Doc. 7.

After reviewing the Plaintiff's brief, Defendant's motion, and the administrative record, I will grant Defendant's unopposed motion for remand.³ The record evidences a right shoulder and neck injury Plaintiff sustained in 2006, and resultant limitations in her range of motion and reaching abilities with respect to the right shoulder and arm. Tr. at 381, 385, 403, 407. In contrast, the ALJ found that Plaintiff suffered from no severe physical impairments and did not include any physical limitations in his RFC assessment. Id. at 25-26, 27-28.

An appropriate Order and Judgment Order follow.

³Plaintiff also alleges that the ALJ who adjudicated her application was not appointed in a manner consistent with the Appointments Clause rendering the decision invalid under Lucia v. SEC, __ U.S. __, 138 S. Ct. 2044 (2018), and because she presented the issue in her request for review to the Appeals Council, Social Security Ruling ("SSR") 19-1p requires the case be remanded. Doc. 11 at 3; see also SSR 91-1p, Titles II and XVI: Effect of the Decision in Lucia v. Securities and Exchange Commission (SEC) on Cases Pending at the Appeals Council, 2019 WL 120203 (March 15, 2019). Considering that the Commissioner has rectified the appointment of all ALJ's, see S.S.R. 91-1p, 2019 WL 120203, at *1, and that I am remanding the case for further consideration of the evidence, I need not address Plaintiff's claim regarding Lucia.